



C A L I F O R N I A   D E P A R T M E N T   O F  
**Mental Health**

August 26, 2003

You are invited to review and respond to this Request for Proposal (RFP), entitled

## Systems of Care Fiscal Consultant

03-73119-000

In submitting your proposal, you must comply with the following instructions:

Each proposer must submit a Letter of Intent to the State Department of Mental Health (DMH) no later than 4:00 p.m. on September 5, 2003. The Letter of Intent must be submitted by U.S. mail or fax only to:

Rita McCabe-Hax, LCSW  
Chief, Medi-Cal Policy and Support Section  
Systems of Care  
Department of Mental Health  
1600 9<sup>th</sup> Street, Room 100  
Sacramento CA 95814  
(916) 654-5722  
Fax: (916) 654-5591  
[rmccabe@dmhhq.state.ca.us](mailto:rmccabe@dmhhq.state.ca.us)

Note that all agreements entered into with the State of California will include by reference General Terms and Conditions and Contractor Certification Clauses that may be viewed and downloaded at Internet site [www.ols.dgs.ca.gov/standard+language](http://www.ols.dgs.ca.gov/standard+language). If you do not have Internet access, a hard copy can be provided by contacting the person listed below.

In the opinion of DMH, this RFP is complete and without need of explanation. However, if you have questions, or should you need any clarifying information, the contact person for this RFP is:

Rita McCabe-Hax, LCSW  
Chief, Medi-Cal Policy and Support Section  
Systems of Care  
Department of Mental Health  
1600 9<sup>th</sup> Street, Room 100  
Sacramento CA 95814  
(916) 654-5722  
Fax: (916) 654-5591  
[rmccabe@dmhhq.state.ca.us](mailto:rmccabe@dmhhq.state.ca.us)

Please note that no *verbal* information given will be binding upon the State unless such information is issued in writing as an official addendum.

Rita McCabe-Hax  
Contract Manager

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## **I. INTRODUCTION**

The State of California Department of Mental Health (DMH) has been expanding its commitment to the planned provision of specialty mental health care in a managed care model of service delivery for Medicaid (Medi-Cal) since 1995. Under the current waiver program, a single managed mental health plan, the county mental health department, is responsible for the administration and provision of services in each county either directly or through contract providers.

The purpose of this Request For Proposal (RFP) is to obtain a contract with a specialized individual or organization to serve as a Systems of Care Fiscal Consultant to assist the DMH with fiscal analyses related to the statewide specialty mental health managed care program and other mental health related programs. DMH will identify a variety of projects and the timeframe for completion of each project. The projects will require budget analysis, cost-benefits analysis, economic analysis and other fiscal related services on a program and/or department basis.

## **II. ADMINISTRATIVE REQUIREMENTS**

This section is included in the RFP to provide bidders with the timelines, guidelines and requirements that must be met for bidders to participate in this competitive bid process.

### **A. TIME SCHEDULE**

Note: This schedule is contingent upon a number of factors, including the availability of funds. Should any significant date be modified, bidders will be notified by DMH.

All bidders are hereby advised of the following schedule and will be expected to adhere to the specified timeframes below:

1. Bid package to be mailed out to any known prospective bidders and posted on the DMH website Aug. 26, 2003
2. Letters of Intent must be received by DMH no later than 4:00 p.m. Sept. 5, 2003
3. Questions must be received by DMH no later than 5:00 p.m. Sept. 18, 2003
4. Bid proposals must be received by DMH no later than 4:00 p.m. Sept. 19, 2003

- |   |                   |
|---|-------------------|
| 5. Evaluations of proposals             | Sept. 22-25, 2003 |
| 6. Posting of Notice of Intent to Award | Oct. 1, 2003      |
| 7. Last day to protest the award        | Oct. 8, 2003      |
| 8. Award contract to successful bidder  | Oct. 17, 2003     |
| 9. Contract start date                  | Nov 1, 2003       |

## **B. LETTERS OF INTENT**

All bidders who intend to compete for the Systems of Care Fiscal Consultant contract must submit a signed Letter of Intent to DMH. The Letter of Intent must be received by DMH no later than 4:00 p.m., September 5, 2003.

The Letter of Intent is a non-binding document and must include the name and physical address of the individual or agency intending to submit a proposal, phone number, and e-mail address of the contact person.

Letters of Intent not received by DMH by 4:00 p.m., September 5, 2003, will result in ineligibility to compete in the RFP process. The Letter of Intent may be submitted through U.S. mail or by fax to:

Rita McCabe-Hax, LCSW  
Chief, Medi-Cal Policy and Support Section  
Systems of Care  
Department of Mental Health  
1600 9<sup>th</sup> Street, Room 100  
Sacramento CA 95814  
(916) 654-5722  
Fax: (916) 654-5591  
[rmccabe@dmhhq.state.ca.us](mailto:rmccabe@dmhhq.state.ca.us)

## **C. CONTACTS BETWEEN BIDDERS AND DMH**

All questions and contact concerning this RFP and timelines shall be directed to Rita McCabe-Hax, Chief, Medi-Cal Policy and Support Section, Systems of Care, by e-mail at [rmccabe@dmhhq.state.ca.us](mailto:rmccabe@dmhhq.state.ca.us) or by fax at (916) 654-5591. Questions must be received no later than 5:00 p.m., September 18, 2003. Questions and responses will be provided to all bidders' contact person identified in the Letters of Intent.

#### **D. SUBMISSION OF PROPOSALS**

All submitted proposals must include the following components: 1) title page; 2) executive summary; 3) scope of work; 4) the detailed cost proposal, budget, and the budget narrative and 5) attachments (as listed in Part V). These components must be submitted to:

Department of Mental Health  
Contracts Unit  
1600 9<sup>th</sup> Street, Room 150  
Sacramento, CA 95814  
Attention: Systems of Care Fiscal Consultant RFP

One original and five copies of the proposal, including attachments, must be submitted. All components must be together in a sealed envelope or box. The envelope or box must be clearly marked with the bidder's name and address and the title of the project for which the proposal is submitted.

Any proposal envelope or box not clearly marked with the name and address of the submitting organization or individual, and the project title which clearly identifies the package as a proposal and/or that is not sent to the above address will be disqualified.

Proposals and modifications, or corrections thereof, received by DMH after 4:00 p.m. September 19, 2003 will not be considered.

The proposal must be in ink or typewritten. To the extent possible, use font size of 12 point. Margins should be at least one-half inch. Paper size should be standard letter size 8 1/2 by 11 inches. No erasures are permitted. Errors may be crossed out and corrections printed in ink or typewritten adjacent to the error. The person signing the proposal must initial the corrections in ink.

#### **E. REJECTION/DISQUALIFICATION**

The following shall cause the immediate disqualification of this proposal:

1. Any bid proposal not received by 4:00 p.m. on September 19, 2003 at:

Department of Mental Health  
Contracts Unit  
1600 9<sup>th</sup> Street, Room 150  
Sacramento, CA 95814  
Attention: Systems of Care Fiscal Consultant RFP

2. Any proposal not clearly marked with the name and address of the

submitting organization or individual and the project title.

3. Letter of Intent not received by DMH by 4:00 p.m. on September 5, 2003.
4. Failure to complete, sign, and submit the "Proposal/Proposer Certification Sheet" provided as Attachment 2 of the RFP.
5. Non-compliance with RFP requirements as set forth in Part IV, "Components of the Proposal and Format."
6. The State has cancelled a contract with the bidder organization or individual within the last three years for negative reasons.

In addition, a proposal may be rejected if it is conditional, is incomplete, or contains any alterations of form or other irregularities of sufficient magnitude or quantity to warrant a finding of being substantially non-compliant. Examples include any conditions or stipulations presented in the proposal by the bidder or the bidder's failure to include, or modification of, a required form such as the Proposal/Proposer Certification Sheet.

An immaterial defect is a flaw, incompleteness, defect or condition that is not of the type to warrant disqualification of the proposal. If, in the judgment of the Evaluation Committee, a proposal is found to contain a substantial number of such defects, the committee may declare the proposal to be substantially non-compliant and reject it. Examples include sending the incorrect number of proposals, utilizing a font other than requested or utilizing a script-style font that is difficult to read.

The State may accept or reject any proposals and may waive any immaterial defect in a proposal. The State's waiver of an immaterial defect shall in no way modify the proposal requirements or excuse the bidder from full contract compliance if awarded the contract.

## **F. PROPOSAL EVALUATION AND CONTRACT AWARD PROCESS**

The maximum contract amount is \$100,000 per State fiscal year for three years. The State fiscal year is from July 1 through June 30. The RFP will be evaluated in accordance with the procedures of Public Contract Code (PCC), Section 10344(c). The contract will be scored and awarded in accordance with the selection criteria specified below and subject to the availability of funds. Each of the proposals will be scored based on the weight assigned to each subject matter.

All bidders shall submit a budget detail breakdown. The budget information will become a part of the contract document. Following the posting of the Notice of Intent to Award, the State reserves the right to negotiate with the successful bidder any redistribution of costs within the budget deemed necessary by the State in order to better achieve program goals. An unwillingness to negotiate shall be considered grounds for cessation of contract negotiation, which may result in bidder's loss of the contract award.

All proposals meeting the administrative requirements shall then be submitted to an Evaluation Committee composed of DMH staff that shall evaluate and score the proposals. The purpose of the proposal evaluation is to determine which proposals demonstrate the skill, expertise and experience to perform the tasks specified in this RFP successfully. In scoring a proposal, each evaluation section will be scored on the basis of completeness, responsiveness, clarity of presentation, and adequacy of the budget in accordance with the RFP requirements. The evaluation of the proposals will be weighed by the following selection criteria for up to 100 points:

**1. Bidder Background 10 points.**

Bidder's current business status, business activities, staff and funding are identified and appear to be stable and appropriate.

**2. Knowledge and Experience 25 points.**

The bidder's knowledge and experience in Medi-Cal specialty mental health services funding; the realignment of funds to counties for health, mental health, and social services; budget analysis; cost-benefit analysis; economic analysis; and other related fiscal services as described in the RFP are clearly presented and appropriate including bidder's ability to:

- a. Define and quantify the problem for the projects identify by DMH.
- b. Conduct budget analysis, cost-benefits analysis, economic analysis and other fiscal related services on a program and/or department basis for mental health managed care and realignment.
- c. Develop/produce cost effectiveness documentation and financial reports for DMH, as needed, for the Medi-Cal mental health managed care program and realignment.
- d. Consult with DMH and other stakeholders regarding the methodology for allocating managed care funds to counties.



- e. Assist DMH in analyzing fiscal issues related to waiver programs, allocations to counties, Early and Periodic Screening, Diagnosis and Treatment (EPSDT) funding, calculating statewide maximum allowances, analysis of cost effectiveness, revising existing manuals and state budget process, etc.
- f. Provide quality control for fiscal calculations performed by DMH staff.
- g. Analyze costs associated with information in county mental health department budgets in relation to realignment funding.
- h. Assist DMH in identifying and analyzing issues related to realignment funding.
- i. Assess the nature and extent of the problem(s), assess the particular features of the policy situation being analyzed and assess policies thought to have worked effectively in a situation similar to that being analyzed.
- j. Determine, develop and collect data needed to perform effective budget analysis, cost-benefit analysis, and economic analysis.
- k. Draw conclusions from raw data and provide appropriate recommendations to DMH.
- l. Consider policy options, alternate courses of action, strategies of intervention to solve or mitigate the problem.
- m. Consult with advisory stakeholder groups and professionals to advise DMH on fiscal impacts.
- n. Prepare detailed reports that include an executive summary, narrative, tables, conclusions and recommendations.

**3. Bidder's Plan 25 points.**

Bidder's plan demonstrates how bidder intends to:

- a. Define and quantify the problem statement on projects specified by DMH.
- b. Conduct budget analysis, cost-benefits analysis, economic analysis and other fiscal related services on a program and/or department basis for mental health managed care and realignment.

- c. Develop cost effectiveness documentation and financial reports for DMH, as needed, for the Medi-Cal mental health managed care program.
- d. Consult with DMH regarding the methodology for allocating managed care funds to counties.
- e. Assist DMH in analyzing other fiscal issues related to waiver programs, allocations to counties, EPSDT funding, calculating statewide maximum allowances, analysis of cost effectiveness, revising existing manuals and state budget process, etc.
- f. Provide quality control for fiscal calculations performed by DMH staff.
- g. Analyze costs associated with information in county mental health department budgets in relation to realignment funding.
- h. Assist DMH in identifying and analyzing issues related to realignment funding.
- i. Gather, extract and analyze the necessary data to perform the effective budget analysis, cost-benefit analysis, economic analysis, and other economic analysis as required in the RFP.
- j. Develop and provide detailed written reports that summarizes all activity associated with work on the analyses.
- k. Write detailed reports to the Legislature, when appropriate, that include an executive summary, narrative, tables, recommendations, and conclusions.
- l. Consult with DMH and other stakeholders to finalize the choice of assessment and evaluation tools needed for the analyses.

**4. Administration and Personnel 10 points.**

- a. Bidder's description of the use of personnel, their functions, qualifications and recruitment plans as appropriate and responsive to the requirements as described in the RFP. A description of work to be completed by staff and staff qualifications are provided, including complete descriptions of any subcontracts, where applicable.
- b. Bidder provides clear information on previous and current government funding and the services provided. Bidder provides adequate explanation

of cessation of funding, if it occurred. For informational purposes only. No points.

**5. Cost Proposal, Budget and Budget Narrative 30 Points.**

- a. Bidder's plan presents an adequate and appropriate budget including all the required elements delineated in Part IV, Section D.
- b. The narrative provides sufficient identification and explanation of budget items and supports the activities presented in the Scope of Work in Part IV, Section C.

**TOTAL 100 POINTS**

The final selection will be based on the highest score that also meets the minimum score requirement of 80 points. If two or more bidders have the same score, the tie will be broken and the bidder will be selected by determining which bidder demonstrates the highest number of years experience providing fiscal consultation in a Medicaid mental health managed care environment.

Prior to actual award of the contract, a Notice of Intent to Award will be posted in Room 150 of the Department of Mental Health, 1600 9<sup>th</sup> Street, Sacramento, CA and on the DMH's website at, [www.dmh.ca.gov](http://www.dmh.ca.gov) for a period of five (5) working days. All proposals and all evaluation and scoring sheets shall be available for public inspection following the posting of the Notice of Intent to Award.

**G. PROTEST PROCEDURES**

1. If, prior to the award, any bidder files a protest with DMH against the awarding of the contract, the contract shall not be awarded until either the protest has been withdrawn or the DMH has decided the matter (PCC, Section 10345).
2. Protests must be received at each of the addresses stated below not later than five (5) working days (postmarked date) after the "Notice of Intent to Award" has been posted.

Department of General Services  
Office of Legal Services  
707 Third Street, 7<sup>th</sup> Floor  
West Sacramento, California 95605

California Department of Mental Health  
Contracts Unit  
1600 9<sup>th</sup> Street, Room 150  
Sacramento, CA 95814

3. Protests shall be limited to the following grounds:
  - a. DMH failed to follow the procedures specified in subdivision (c) of the PCC, Section 10344.
  - b. DMH failed to apply the standards for reviewing the format requirements or evaluating the proposals correctly as specified in the RFP.
  - c. DMH used the evaluation and selection procedure in subdivision (c) of the PPC, Section 10344, but is proposing to award the contract to a bidder other than the highest responsive bidder score.
  - d. DMH used the evaluation and selection procedure in subdivision (c) of the PPC Section 10344, but failed to follow the methods for evaluating and scoring the proposals specified in the RFP.

### **III. GENERAL OVERVIEW**

As the State began to move towards managed care in the delivery of physical health services to the Medi-Cal population, one of the driving forces was to design a system which would integrate and coordinate care. This led to the plan to consolidate the two Medi-Cal funding streams for mental health services that existed prior to the advent of managed care for mental health services.

Implementing managed care for mental health services was designed to provide a cost containment strategy that would allow a prudent purchaser of services to obtain maximum benefit for its expenditures at the same time allowing for increased access to specialty mental health services within the same level of funding. Consolidating the two mental health funding streams helped achieve this by improving care coordination and reducing administrative costs. In addition, consolidating services assured consistent statewide access to persons receiving specialty mental health services.

The decision to provide specialty mental health services in California through a single plan in each county logically followed the decision to carve out Medi-Cal specialty mental health services and to consolidate the two mental health delivery systems and various funding streams. This decision necessitated a "freedom of choice" waiver from Centers for Medicare and Medicaid Services (CMS). This waiver allowed California to have a single plan model whereby beneficiaries in need of specialty mental health

services have one plan available in each county as opposed to the more traditional managed care model of a choice of at least two plans in each locality from which beneficiaries might choose.

The selection of county mental health departments to be the single managed care plan for consolidated Medi-Cal specialty mental health services was a natural outgrowth of the extensive experience counties have had in serving the mental health needs of communities. County mental health departments were given the "first right of refusal" in choosing to be the mental health plan (MHP) for the county. All counties in California chose to become the MHP for their beneficiaries, although there are provisions to choose another entity to be the MHP if a county chose not to assume that role. Two counties chose to partner with another county to be the MHP.

The Medi-Cal Specialty Mental Health Services Consolidation program began in January 1995 with county mental health departments taking on responsibility for authorization and payment of all Medi-Cal covered psychiatric inpatient hospital services for beneficiaries in the county (three counties field tested slightly different models). Previously, county mental health departments had managed psychiatric inpatient hospital services only at county hospitals or hospitals under contract to the county. All other psychiatric inpatient hospital services had been managed by the Department of Health Services (DHS) through the regular Medi-Cal program. Between November 1997 and July 1998, county mental health departments in their role as Medi-Cal MHPs assumed responsibility for inpatient hospital and outpatient specialty mental health professional services in addition to their previous responsibility to provide psychiatric inpatient hospital services, rehabilitative mental health services and targeted case management. The specialty mental health services program continues to operate under a federal freedom of choice waiver originally approved in May 1995 and renewed in September 1997, November 2001 and April 2003. Field tests remain in two counties.

Under the waiver program each MHP contracts with DMH to provide medically necessary specialty mental health services to the Medi-Cal beneficiaries of the county and is governed by federal and state regulations. MHPs select and credential their provider network, negotiate rates, authorize services and provide payment for services rendered by specialty mental health providers in accordance with statewide criteria. Medi-Cal beneficiaries must receive Medi-Cal reimbursed specialty mental health services through the MHPs.

MHP coverage of a specialty mental health service requires that several criteria be met. The beneficiary must meet the medical necessity criteria for specialty mental health services, which consist of covered diagnoses and functional impairment and intervention criteria. The services must be delivered by or under the direction of a mental health professional. The services must also be mental health services, for

example, medication management of psychotropic medications, individual therapy, and psychological testing. A distinction is made between specialty mental health care (those services requiring the services of a specialist in mental health) and general mental health care needs (those needs which could be met by a general health care practitioner, such as a primary care physician). General mental health care needs for Medi-Cal beneficiaries remain under the purview of DHS either through their Medi-Cal physical health care managed care plans or through the regular Medi-Cal program.

#### **A. DUTIES OF THE SYSTEMS OF CARE FISCAL CONSULTANT**

The Systems of Care Fiscal Consultant (Consultant) will assist the DMH with fiscal analyses related to the statewide specialty mental health managed care program and other mental health related programs. DMH will identify a variety of projects and the time frame for completion of each project. Projects will require budget analysis, cost-benefit analysis, economic analysis and other related fiscal services on a program and/or department basis. It is estimated that the contract term will begin November 1, 2003 and will expire June 30, 2006. The terms of the contract are contingent upon the availability of funds. Payment for completed services will be based on a flat hourly rate, plus expenses as specified in the RFP. The base of operation for the project will be in the city of Sacramento, California.

#### **B. DELIVERABLES AND TIMELINESS**

DMH and the Consultant shall develop a priority list of the duties to be performed within specified timelines and the funds available. Consultant will submit a work authorization for each project to the Contract Manager. Work authorizations will include background of the project, objectives to be met, task descriptions and deliverables, schedule, and estimated project budget. Specific project activities to be performed include the following:

##### **1. MANAGED CARE WAIVERS AND ALLOCATIONS**

- a. The Consultant will develop cost effectiveness documentation and financial reports for DMH, as needed, for the Medi-Cal specialty mental health managed care program.
- b. Consult with DMH regarding the methodology for allocating managed care funds to counties
- c. Assist DMH in analyzing other fiscal issues related to waiver programs, allocations to counties, EPSDT funding, calculating statewide maximum allowances, analysis of cost effectiveness, implementation of regulations, revising existing manuals and state budget process, etc.

- d. Provide quality control for fiscal calculations performed by DMH staff.

## **2. REALIGNMENT**

- a. Assist DMH in identifying and analyzing issues related to realignment funding.

## **C. MANAGEMENT OF PROJECTS**

DMH reserves the right to use and reproduce all reports and data produced and delivered pursuant to this contract and reserves the right to authorize others to use or reproduce such materials, provided the author of the reports is acknowledged in any such use of reproduction.

DMH and the Consultant shall develop a general work authorization, work authorizations, and task assignments based on the projects described in the RFP.

A general work authorization means a written instrument agreed to by the Contract Manager and the Consultant that (1) allows the Consultant to carry out preliminary work including reviewing, commenting on, scheduling and budgeting for proposed work authorizations prior to finalization and (2) allows DMH to authorize specific minor tasks that do not require a separate work authorization.

A work authorization means a written instrument describing a project assignment within the contract with a specific objective, schedule and budget that is agreed to in writing by the Contract Manager and the Consultant.

A task assignment means a written instrument issued to the Consultant by the Contract Manager authorizing work under the general work authorization.

When expedience is of the utmost importance, the Contract Manager may verbally authorize the Consultant to begin work on a project, following up with a written authorization.

Each work authorization shall contain:

1. A statement of the purpose, objective or goal of the work authorization.
2. A schedule displaying the dates when specific tasks will be completed and a description of all significant material (deliverables) to be developed and delivered by the Consultant to the Contract Manager.
3. An identification of all materials to be furnished to the Consultant by the DMH.

4. A budget showing the maximum billable hours anticipated for completion of the work authorization consistent with the invoicing requirements in Part III.

DMH will provide the Consultant with Medi-Cal data in a format agreed to between the Consultant and DMH and will provide departmental staff to assist in the creation of data models to be analyzed by the Consultant.

DMH reserves the right to require the Consultant, upon one day written notice from the Contract Manager, to stop or suspend work on any work authorization or task assignment.

The actual costs of a completed work authorization or task assignment shall not exceed the authorized amount unless, in the performance of the work, the Consultant determines that the actual costs will exceed the estimated costs. In that event, the Consultant shall immediately notify the Contract Manager.

Upon such notification, the Contract Manager may:

1. Alter the scope of the work authorization or task assignment to accomplish the work within estimated costs;
2. Augment the work authorization budget;
3. Authorize the Consultant to complete the task assignment for the actual costs; or
4. Terminate the work authorization or task assignment.

#### **D. INVOICING REQUIREMENTS**

Invoices shall be submitted for each project and must include the time period covered, the hours worked identified by individual consultant, the hourly rates, per diem and travel expenses by individual with related documentation, a description of the work performed, the contract number and an original signature. Invoices shall be submitted to the Contract Manager at: Department of Mental Health, 1600 9<sup>th</sup> Street, Room 100, Sacramento, CA. 95814. The duties performed under this RFP shall not include information technology consulting services, the design and development of electronic data processing systems, or software design.

#### **E. TRAVEL TO MULTIPLE LOCATIONS**

Consultant will attend planning meetings conducted by DMH, DHS, CMS, and other appropriate agencies and stakeholder groups as directed by DMH. Reimbursement



for travel and per diem will not exceed amounts paid to the State's non-represented employees. Travel and per diem expenses must be pre-authorized, and will only include expenses to sites that are not located in the city of Sacramento, California.

#### **IV. COMPONENTS OF THE PROPOSAL AND FORMAT**

The proposal must be in ink or typewritten. To the extent possible, use font size of 12 point. Margins should be at least one-half inch. Paper size should be standard letter size 8 1/2 by 11 inches. No erasures are permitted. Errors may be crossed out and corrections printed in ink or typewritten adjacent to the error. The person signing the proposal must initial the corrections in ink.

##### **A. TITLE PAGE:**

Include a title page that provides the following information: The name of your business; the business' address and telephone numbers, fax numbers; the business' federal tax identification number; the name of the chief executive officer; the name of contact person; the contact person's phone number and e-mail address; and the date the proposal is submitted.

##### **B. EXECUTIVE SUMMARY:**

Describe in no more than 2 typewritten double-spaced pages the following:

1. The highlights of your proposal;
2. A brief description of your business;
3. The objectives to be met; and
4. Methods proposed to meet the objectives.

##### **C. SCOPE OF WORK:**

Describe in no more than 8 typewritten double-spaced pages your business and your proposed operations as it relates to the Systems of Care Fiscal Consultant. Neither the attachments nor the budget information count in this total. To the extent possible, use the headings on Part II, Sections F1, F2, F3, and F4 for this section of your proposal.

##### **D. COST PROPOSAL, BUDGET AND BUDGET NARRATIVE: (Attachment 5)**

Provide a cost proposal, budget, and budget narrative that covers the periods of the contract from November 1, 2003 through June 30, 2006. Budget amounts must be tied to the required scope of work described in Part IV, Section C.

The cost proposal, budget, and budget narrative is not to exceed the \$100,000 per State fiscal year maximum contract amount. Any proposals exceeding this amount will be rejected.

The cost proposal, budget, and the budget narrative will take into consideration the Deliverables and Timelines specified in Part III, Sections B 1 and 2. The budget must be accompanied by a detailed narrative for the following categories:

1. **Personnel Expenses:** List each position separately with its salary and percentage of time on this project. Indicate the benefits, if any, for each position.
  2. **Operating Expenses:** List expenses for occupancy, supplies, general office operations, telephone, postage, furniture and equipment, computer equipment and related items, travel and other items.
  3. **Subcontract Expenses:** List the type and specify the costs for all subcontracted services including consultants or professional services that bidder intends to retain. Subcontractors include any persons/firms performing contract services that are not on the bidder's payroll.
- E. **ATTACHMENTS:** See Part V, Section A for a complete listing of required documents and Attachment I for the required check-list.

## V. EXHIBITS

### A. Exhibit I: Required Attachments

1. Attachment 1: Required attachments check list
2. Attachment 2: All bidders shall complete the Proposal/Proposer Certification Sheet
3. All bidders shall submit a Statement of Qualifications, resume or curriculum vitae for all individuals who will work on the project. If the person who will serve as the primary Fiscal Consultant has not been identified, include a job description for the position.
4. Attachment 4: All bidders shall submit letters of reference and a listing of previous agencies and/or organizations for which bidder has performed similar duties as required by this RFP. Attach a release to enable the DMH to contact the listed agencies/organizations.

5. Attachment 5: All bidders shall submit a Cost Proposal that identifies the all-inclusive daily rate for services. The all inclusive daily rate shall include all costs including preparation time, consultant time, travel expenses, per diem, and materials.
6. Attachment 6: All bidders must submit a completed form number MH 1157, "Small Business Identification Questionnaire." Contractors that are certified as a small business in California are strongly encouraged to apply.
7. Attachment 7: Payee Data Record (STD 204) is not required with the proposal package. However, it is required upon award of the contract. A copy is provided for informational purposes only.
8. Attachment 8: All bidders must submit a completed nondiscrimination compliance statement or an equivalent certification, pursuant to Government Code, Section 12990 (a through f) and Title 2, California Code of Regulation, Section 8113. Bidders may choose to use Attachment 8 entitled, "CCC 201," also known as the "Contractor Certification Clauses (CCC)" to fulfill this requirement.
9. Attachment 9: The Health Insurance Portability and Accountability Act (HIPAA) Business Associate Agreement, also known as Exhibit, E must be met for this RFP. Except as otherwise provided in the HIPAA Business Associate Agreement, Consultant, hereafter known as the Business Associate, may use or disclose protected health information to perform functions, activities or services for or on behalf of the DMH, as specified in this agreement, provided that such use or disclosure would not violate HIPAA, U.S.C. 1320d et seq., and its implementing regulations including but not limited to 45 C.F.R. Parts 142, 160, 162, and 164, hereafter know as the Privacy Rule. The uses and disclosures of PHI may not be more expansive than those applicable to the DMH under the regulations except as authorized for management, administrative or legal responsibilities of the Business Associate.

The Business Associate shall comply with, and assist DMH in complying with, the privacy requirements of HIPAA. Terms used but not otherwise defined in this HIPAA Business Associate Agreement shall have the same meaning as those terms used in the Privacy Rule.

If DMH becomes aware of a pattern of activity that violates this HIPAA Business Associate Agreement and reasonable steps to cure the violation are unsuccessful, DMH must terminate the contract; or if not feasible, report

the problem to the Secretary of the U.S. Department of Health and Human Services. Please refer to Exhibit E (Attachment 9) for more information.

10. Submit copies of any record or action by the applicant agency's Board of Directors or organization's owners specifically authorizing the submission of a proposal to perform the duties as the Systems of Care Fiscal Consultant.
11. Submit documents showing existing relationships or working agreements with service providers with whom you intend to subcontract. The DMH will consider the prime contractor to be the sole point of contact with regard to this RFP. No subcontract may be entered into without the review and prior approval of DMH.
12. All bidders must provide at least one sample of work from a similar project. The sample should include copies of the analyses, timelines, work plans, progress updates, final report, etc.
13. All bidders must submit evidence of financial stability and document sufficient financial resources necessary to perform all services associated with the contract. This requirement may be fulfilled in one of the following ways:
  - a. Financial statements for each of the last three years audited by an independent third-party Certified Public Accountant. All noted audit exceptions must be explained.
  - b. If audited statements are not available, DMH will accept statements that have been reviewed by a Certified Public Accountant.
  - c. If neither audited nor reviewed financial statements are prepared, DMH will accept financial statements that have been compiled by the applicant's accounting firm.
  - d. If neither audited, reviewed, nor compiled statements are normally prepared by the agency, DMH will accept financial statements prepared by the applicant's internal accounting department.

These statements must be accompanied by a statement signed by the applicant's Chief Financial Officer, certifying that the financial statements are current, accurate, and complete.

Financial statements must include income statements and balance sheets. Financial statements must be completed based on final (not draft) reports and

cannot be supported by unreasonably qualified statements. Also, include in this section a statement, signed by either an independent third-party Certified Public Accountant or the applicant's Chief Financial Officer, that the applicant agency operated in accordance with Generally Accepted Accounting Principles (GAAP).

14. The applicant, and/or any key project partner, must identify any past history of bankruptcy, receivership, failure to fulfill contract, criminal or legal action for the past five years. Provide a description of said past history and the current status.

**B. Exhibit II: Sample of State Contract**

1. State's Standard Agreement STD 213 (Rev 06/03)

## **ATTACHMENT 1**

### **REQUIRED ATTACHMENT CHECK LIST**

A complete proposal or proposal package will consist of the items identified below. Complete this checklist to confirm the items in your proposal. Place a check mark or "X" next to each item that you are submitting to the State.

For your proposal to be responsive, all required attachments must be returned with your proposal. All required forms and instructions, if applicable, are provided for all attachments except Attachments 3 and 7. Bidders have discretion to choose the format for Attachment 3. Attachment 7 is not required with the proposal, but it will be required upon awarding the contract if currently not on file. This checklist should also be returned with your proposal package.

<b><u>Attachment</u></b>	<b><u>Attachment Name/Description</u></b>
_____ Attachment 1	Required Attachment Check List
_____ Attachment 2	Proposal/Proposer Certification Sheet
_____ Attachment 3	Statement of Qualifications, resume or curriculum vitae for all individuals who will work on the project. If the person who will serve as the primary Fiscal Consultant has not been identified, include a job description for the position.
_____ Attachment 4	Proposer References
_____ Attachment 5	Cost Proposal, Budget, and Budget Narrative
_____ Attachment 6	Small Business Identification Questionnaire
_____ Attachment 7	Payee Data Record (STD 204) (if currently not on file)**
_____ Attachment 8	Contractor Certification Clauses (CCC) The CCC also known as (CCC201 Certification) can also be found on the Internet at <a href="http://www.ols.dgs.ca.gov/Standard+Language">www.ols.dgs.ca.gov/Standard+Language</a> .
_____ Attachment 9	HIPAA Business Associate Agreement (Also Exhibit E)
_____ Attachment 10	Records of action by the applicant agency's Board of Directors or organization's owners specifically authorizing the submission of a proposal to perform the duties as the Systems of Care Fiscal Consultant
_____ Attachment 11	Documents showing existing relationships or working agreements with service providers with whom the applicant intends to subcontract
_____ Attachment 12	Sample of work from a similar project.
_____ Attachment 13	Evidence of financial stability and document sufficient financial resources necessary to perform all services associated with this contract.
_____ Attachment 14	Identify for the applicant and/or any key project partner, any past history of bankruptcy, receivership, failure to fulfill contract, criminal or legal action for the past five years. Provide a description of said past history and the current status.

**\*\*These documents are not required with Proposal package but are required upon award of the contract.**

## ATTACHMENT 2

### **PROPOSAL/PROPOSER CERTIFICATION SHEET (Instructions Attachment 2-A)**

This Proposal/Proposer Certification Sheet must be signed and returned along with all the "required attachments" as an entire package in duplicate with original signatures. The proposal must be transmitted in a sealed envelope in accordance with RFP instructions.

**Do not return the sample "Standard Agreement" (STD 213) with this RFP.**

- A. Place all required attachments behind this certification sheet.
- B. The signature affixed hereon and dated certifies compliance with all the requirements of this proposal document. The signature below authorizes the verification of this certification.

#### **An Unsigned Proposal/Proposer Certification Sheet May Be Cause For Rejection**

1. Company Name	2. Telephone Number (    )	2a. Fax Number (    )
3. Address		
Indicate your organization type: 4. <input type="checkbox"/> Sole Proprietorship      5. <input type="checkbox"/> Partnership      6. <input type="checkbox"/> Corporation		
Indicate the applicable employee and/or corporation number: 7. Federal Employee ID No. (FEIN)      8. California Corporation No.		
9. Indicate applicable license and/or certification information:		
10. Proposer's Name (Print)		11. Title
12. <b>Signature</b>		13. Date
14. Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as: a. California Small Business Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter certification number: _____ b. Disabled Veteran Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter your service code below: _____  <b>NOTE:</b> A copy of your Certification is required to be included if either of the above items is checked "Yes".  Date application was submitted to OSBCR, if an application is pending:		

## **ATTACHMENT 2-A**

### **COMPLETION INSTRUCTIONS FOR PROPOSAL/PROPOSER CERTIFICATION SHEET**

Complete the numbered items on the Proposal/Proposer Certification Sheet by following the instructions below.

<b>Item Numbers</b>	<b>Instructions</b>
<b>1, 2, 2a, 3</b>	Must be completed. These items are self-explanatory.
<b>4</b>	Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.
<b>5</b>	Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.
<b>6</b>	Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.
<b>7</b>	Enter your federal employee tax identification number.
<b>8</b>	Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.
<b>9</b>	Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured.
<b>10, 11, 12, 13</b>	Must be completed. These items are self-explanatory.
<b>14</b>	If certified as a California Small Business, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR.



## **ATTACHMENT 4**

### **PROPOSER REFERENCES**

Submission of this attachment is mandatory. Failure to complete and return this attachment with your proposal will cause your proposal to be rejected and deemed nonresponsive.

**List below three references for services performed within the last five years, which are similar to the scope of work to be performed in this contract. If three references cannot be provided, please explain why on an attached sheet of paper.**

#### REFERENCE 1

Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

#### REFERENCE 2

Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

#### REFERENCE 3

Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

## **ATTACHMENT 5**

### **SAMPLE COST PROPOSAL WORKSHEET (To Accompany budget detail)**

(You may use this sample as a guide to developing your cost proposal)

The consultant will be paid at an all-inclusive daily rate of \$\_\_\_\_\_ per day. The all-inclusive daily rate includes all the expenses necessary to carry out budget analysis, cost-benefits analysis, economic analysis and other fiscal related services specified in the contract, such as, but not limited to, the consultant's travel time, travel expenses, per diem; and any other employee and support time expenses.

The typical duration of a single budget analysis, cost benefit analysis, economic analysis as described in the work plan is \_\_\_\_\_ day(s) for total amount of \$\_\_\_\_\_. The number of days to be used during the contract year will be based on program need and market demand.

<b>DIRECT LABOR</b>	<b>HOURS</b>	<b>RATE</b>	<b>TOTAL</b>
Program Manager (Job Description)	_____@	_____	_____
Staff Assistant (Job Description)	_____@	_____	_____
Technician (Job Description)	_____@	_____	_____
Clerical (Job Description)	_____@	_____	_____
			\$ _____
<b>SUBCONTRACTOR(S) COST ITEMIZED</b>			\$ _____
<b>INDIRECT COSTS (OVERHEAD AND FRINGE BENEFITS)</b>			
Overhead Rate		_____	\$ _____
Fringe Benefits		_____	\$ _____
<b>DIRECT COSTS (EXCEPT LABOR)</b>			
Travel Costs			\$ _____
Equipment and Supplies (Itemized)			\$ _____
Other Direct Costs (Itemized)			\$ _____
			\$ _____
<b>TOTAL COSTS</b>			\$ _____

## **ATTACHEMENT 6**

State of California-Health and Human Services Agency

Department of Mental Health

### **SMALL BUSINESS IDENTIFICATION QUESTIONNAIRE**

MH 1157 (1/00)

INSTRUCTIONS: Please complete the following information and return it to the requesting office. If you are bidding on State business, submit the completed questionnaire with your bid package. The information is required for statistical purposes only.

---

---

NAME OF BUSINESS

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ADDRESS (street, city, state, zip)

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TYPE OF BUSINESS

☐ Sole Proprietorship      ☐ Partnership      ☐ Corporation

☐ Association      ☐ Non-profit Entity      ☐ Public Entity

**(Note: If Non-Profit or Public Entity, do not complete remainder of form)**

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SIZE OF BUSINESS

☐ My business is a **certified** small business with the OSMB.

☐ My business is **not** certified with the OSMB or it would be considered a large business.

☐ My business is a **certified** disabled veteran business.

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ETHNICITY AND GENDER OF BUSINESS OWNERSHIP

☐ Enter the number or letter that best identifies the ownership of your business. See definitions below.

Ethnicity	Male	Female	Ethnicity	Male	Female
Black	1	A	Caucasian	5	E
Asian	2	B	American Indian	7	G
Hispanic	3	D	Filipino	8	H

### **DEFINITIONS**

- MINORITY:** "Minority" means an ethnic person of color including American Indians, Asians (including, but not limited to, Chinese, Japanese, Koreans, Pacific Islanders, Samoans, and Southeast Asians), Blacks, Filipinos, and Hispanics.
- SIZE OF BUSINESS:** Check the first box only if your business has been certified for the Small Business Preference by the Office of Small and Minority Business (OSMB). Check the second box if your business is not pre-certified or you consider it a large business.
- ETHNICITY & GENDER:** Complete the code best reflecting the ethnicity and gender of the person who owns at least 51 percent of the business, or in the case of a publicly owned business, at least 51 percent of the stock. In the case of an equal partnership between a Caucasian and minority group member, enter the minority group member's ethnicity code.

## **ATTACHMENT 7**

### **Payee Data Record STD 204**

This form is not required with proposal package, but is required upon award of the contract. A copy is provided for informational purposes only.

## **ATTACHMENT 8**

### **CCC201 CERTIFICATION**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

### **CONTRACTOR CERTIFICATION CLAUSES**

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

4. UNION ORGANIZING Contractor hereby certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote or deter union organizing.

### **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (PCC 10410):

1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (PCC 10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (PCC 10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700).

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

#### 5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other government entity.



## **ATTACHMENT 9**

### **EXHIBIT E**

#### **HIPAA BUSINESS ASSOCIATE AGREEMENT**

The Contractor, referred to in this section as Business Associate. shall comply with, and assist the Department in complying with, the privacy requirements of the Health Insurance Portability and Accountability Act (HIPAA), including but not limited to Title 42, United States Code, Section 1320d et seq. and its implementing regulations (including but not limited to Title 45, CFR, Parts 142, 160, 162, and 164), hereinafter collectively referred to as the "Privacy Rule." Terms used but not otherwise defined in this section shall have the same meaning as those terms are used in the Privacy Rule.

If the Department becomes aware of a pattern of activity that violates this section and reasonable steps to cure the violation are unsuccessful, the Department will terminate the contract, or if not feasible; report the problem to the Secretary of HHS.

#### **I. Use and Disclosure of Protected Health Information**

1. Except as otherwise provided in this section, Business Associate may use or disclose protected health information (PHI) to perform functions, activities or services for or on behalf of the Department, as specified in this contract, provided that such use or disclosure would not violate the Privacy Rule if done by the Department or the minimum necessary policies and procedures of the Department.
2. Except as otherwise limited in this section, Business Associate may use and disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
3. Except as otherwise limited in this section, Business Associate may use PHI to provide data aggregation services related to the health care operation of the Department.

#### **II. Further Disclosure of PHI**

Business Associate shall not use or further disclose PHI other than as permitted or required by this section or as required by law.

### **III. Safeguard of PHI**

Business Associate shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this section.

### **IV. Unauthorized Use or Disclosure of PHI**

Business Associate shall report to the Department any use or disclosure of the PHI not provided for by this section.

### **V. Mitigation of Disallowed Uses and Disclosures**

Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this section.

### **VI. Agents and Subcontractors of the Business Associate**

Business Associate shall ensure that any agent, including a subcontractor, to which the Business Associate provides PHI received from, or created or received by the Business Associate on behalf of the Department, shall comply with the same restrictions and conditions that apply through this section to the Business Associate with respect to such information.

### **VII. Access to PHI**

Business Associate shall provide access, at the request of the Department, and in the time and manner designated by the Department, to the Department or, as directed by the Department, to PHI in a designated record set to an individual in order to meet the requirements of Title 45, CFR, Section 164.524.

### **VIII. Amendment(s) to PHI**

Business Associate shall make any amendment(s) to PHI in a designated record set that the Department directs or at the request of the Department or an individual, and in the time and manner designated by the Department in accordance with Title 45, CFR, Section 164.526.

### **IX. Documentation of Uses and Disclosures**

Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for the Department to respond to a request by an individual for an accounting of disclosures of PHI in accordance with Title 45, CFR, Section 164.528.

### **X. Accounting of Disclosure**

Business Associate shall provide to the Department or an individual, in time and manner designated by the Department, information collected in accordance with Title 45, CFR, Section 164.528, to permit the Department to respond to a request by the individual for an accounting of disclosures of PHI in accordance with Title 45, CFR, Section 164.528.

## **XI. Records Available to the Department and Secretary of HHS**

Business Associate shall make internal practices, books and records related to the use, disclosure, and privacy protection of PHI received from the Department, or created or received by the Business Associate on behalf of the Department, available to the Department or to the Secretary of HHS for purposes of the Secretary determining the Department's compliance with the Privacy Rule, in a time and manner designed by the Department or the Secretary of HHS.

### **C. Retention, Transfer and Destruction of Information on Contract Termination**

1. Upon termination of the contract for any reason, Business Associate shall retain all PHI received from the Department, or created or received by the Business Associate on behalf of the Department in accordance with Exhibit A, Attachment 1, Section P of this contract in a manner that complies with the Privacy Rules. This provision shall apply to PHI in possession of subcontractors or agents of the Business Associate.
2. Prior to termination of the contract, the Business Associate may be required by the Department to provide copies of PHI to the Department in accordance with Exhibit A, Attachment 1, Section Q. This provision shall apply to PHI in possession of subcontractors or agents of the Business Associate.
3. When the retention requirements on termination of the contract have been met, the Business Associate shall destroy all PHI received from the Department, or created or received by the Business Associate on behalf of the Department. This provision shall apply to PHI in possession of subcontractors or agents of the Business Associate. Business Associate, its agents or subcontractors shall retain no copies of the PHI.
4. In the event that Business Associate determines that destroying the PHI is not feasible, Business Associate shall provide the Department notification of the conditions that make destruction infeasible. Upon mutual agreement of the parties that the destruction of the PHI is not feasible, Business Associate shall extend the protections of this section to such PHI and limit further use and disclosures of such PHI for so long as Business Associate, or any of its agents or subcontractors, maintains such PHI.

## **XII. Amendments to Section**

The Parties agree to take such action as is necessary to amend this section as necessary for the Department to comply with the requirements of the Privacy Rule and its implementing regulations.

## **XIII. Material Breach**

If the Department becomes aware of a pattern of activity that violates this section and reasonable steps to cure the violation are unsuccessful, the Department will

terminate the contract, or if not feasible; report the problem to the Secretary of HHS.

**D. Survival**

The respective rights and obligations of Business Associate shall survive the termination of this contract.

**XIV. Interpretation**

Any ambiguity in this section shall be resolved to permit the Department to comply with the Privacy Rule.

## **Exhibit II**

Sample of State's Standard Agreement (STD 213 Rev 06/03). Do not submit this sample Standard Agreement with this RFP. A copy is provided for informational purposes only.